



PRESS RELEASE

Attorney General Frosh Pushes for Graphic Image Warning Labels on Cigarette Packaging

Coalition of 25 Attorneys General File Amicus Brief Supporting Federal Authority to Require Images with Text Warnings

BALTIMORE, MD (July 17, 2020) – Maryland Attorney General Brian E. Frosh today joined a coalition of 25 attorneys general filing an [amicus brief](#) supporting federal regulations requiring “graphic image” warning labels—consisting of color images that depict the dangers of smoking—on cigarette packages.

The coalition filed the brief in *R.J. Reynolds v. FDA* in the U.S. District Court for the Eastern District of Texas, supporting the authority of the Food and Drug Administration (FDA) and the Department of Health and Human Services to issue regulations requiring graphic images to be included with text warnings on cigarette packages. The attorneys general argue that, contrary to the plaintiffs’ claims, the regulations do not violate the First Amendment. Additionally, the government has a substantial interest in ensuring that customers understand the dangers of smoking, particularly as tobacco companies have a long history of deceiving consumers.

“Big tobacco has deceived and manipulated consumers for decades. Their products are unsafe,” said Attorney General Frosh. “These companies should be required to put as much effort into warning users of the deadly effects of tobacco as they did in addicting them in the first place.”

In 1998, 46 states and several territories entered into the Master Settlement Agreement (MSA) with the major tobacco manufacturers. The landmark agreement related to the marketing, sale, and consumption of cigarettes resolved states’ claims that major tobacco manufacturers engaged in decades of fraud by denying the addictiveness of cigarettes and misrepresenting the negative health impacts associated with using tobacco products. Although the MSA prohibited tobacco companies from misrepresenting the health consequences of cigarettes, Congress recognized that current warning labels on cigarettes did not sufficiently convey the dangers of smoking.

In 2009, Congress passed legislation specifying the text, size, and placement of new warning labels and directed the FDA to select images to illustrate the warnings. The images would be combined with written warnings, such as “WARNING: Smoking causes COPD, a lung disease that can be fatal” and “WARNING: Tobacco smoke can harm your children,” and the combined warnings would have to cover the top 50 percent of the front and back panels of all cigarette packages and the top 20 percent of all print cigarette advertisements.

In the brief, the coalition argues that the government has a significant interest in informing the public about the dangers of smoking, and the First Amendment does not prevent the government from requiring that lethal and addictive products carry warning labels that effectively inform people of the risks those products entail. The coalition argues that the graphic warning labels are intended to inform consumers of relevant product information, which is consistent with many laws that are enacted to inform consumers of relevant product information. Additionally, the attorneys general point out that because graphic warning labels promote the “free flow of commercial information,” they are consistent with the First Amendment.

The attorneys general state that the proposed graphic warning labels are needed to counter the effect of deceptive and fraudulent conduct by tobacco companies. The FDA’s labels warn users of death and disease resulting from smoking, the effects of secondhand smoke, and the dangers of smoking during pregnancy. In the brief, the attorneys general highlight previous court decisions finding that tobacco companies intentionally misled consumers by minimizing the hazards of smoking and exposure to smoking. The attorneys general state that in order to attempt to undo the decades of deception by tobacco companies, cigarette packages must feature powerful and graphic warning labels.

Joining Attorney General Frosh in filing the brief are the attorneys general of Alaska, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Idaho, Illinois, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington.